

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

=====X Cr. No. 13-607 (JFB)  
UNITED STATES OF AMERICA,

- against -

PHILLIP KENNER and  
TOMMY CONSTANTINE, also known  
as "Tommy C. Hormovitis"

**ORDER**

Defendants.

=====X

IT IS HEREBY ORDERED that personnel at the Metropolitan Detention Center shall deliver to the United States Marshal a MacBook laptop computer in the possession of the defendant, Phillip Kenner, when the defendant is transported by the United States Marshal on May 4, 2015 for the start of his trial before this Court and retain custody of such MacBook laptop computer for delivery to the defendant's attorney, Richard D. Haley, who will retrieve it from the United States Marshal at the courthouse for use by the defendant in the courtroom throughout the trial. At the end of each trial day, Mr. Haley will retain the MacBook laptop computer in his possession or lock it in the courtroom storage room for attorneys for retrieval and use during each trial day.

IT IS FURTHER ORDERED that at the end of each Thursday of trial (the Court does not sit on Friday during the course of the trial), the MacBook laptop computer will be delivered to the United States Marshal by Mr. Haley for transport back to the Metropolitan Detention Center and delivery to personnel at the Metropolitan Detention Center who shall thereafter permit the defendant to access the MacBook laptop computer during non-trial days (Friday, Saturday and Sunday) pursuant to the previous order of this Court, filed in the Office of the Clerk of this Court on April 28, 2015, a copy of which is attached hereto and made part hereof.

IT IS FURTHER ORDERED that procedure and protocol for the defendant's use and access to the MacBook laptop computer as outlined in this order will be repeated for each successive week of trial and will remain in place until further order of this Court. This order is not intended to supersede or interrupt the defendant's use and access of his MacBook laptop computer as outlined in the attached order from the date of this order to the defendant's appearance for trial on May 4, 2015.

\_\_\_\_\_



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

JDG:RTP  
F. # 2015R00253

*271 Cadman Plaza East  
Brooklyn, New York 11201*

April 24, 2015

**By ECF**

The Honorable Joseph F. Bianco  
United States District Judge  
Eastern District of New York  
100 Federal Plaza  
Central Islip, New York 11722

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

★ **APR 28 2015** ★

LONG ISLAND OFFICE

Re: United States v. Philip Kenner  
Criminal Docket No. 13-607 (S-1) (JFB)

Dear Judge Bianco:

As the Court is aware, I am firewall counsel in the above-referenced case. During the April 22, 2015 status conference, the Court discussed with the parties the United States Marshal Service's plan to move the defendant Philip Kenner from the Queens GEO Detention Facility ("Queens GEO") to the Metropolitan Detention Center ("MDC"). The Court indicated its preference that the defendant remain at Queens GEO and directed the government to inform the Court whether it was feasible for the defendant to remain there. If it was determined that it was not feasible for the defendant to remain at Queens GEO, the Court directed the government to ascertain whether the MDC could accommodate the defendant being able to use a laptop computer that the Court previously directed be provided to the defendant to review materials in connection with his upcoming trial. The Court further directed the government to file a letter following the status conference with respect to these issues.

As set forth more fully during an ex parte telephone conference later in the day on April 22, 2015, due to security concerns, and in light of the fact that the MDC has informed the undersigned that it can accommodate the defendant's access to discovery materials, the Court determined that the defendant could be moved to the MDC. Indeed, the MDC has informed the undersigned that Kenner would be permitted to have access to his laptop computer

between the hours of 8 am to 7 pm on weekdays and from 8 am to 3 pm on weekends in the visitor area of the MDC.<sup>1</sup> After the government notified the Court during the April 22, 2015 ex parte telephone conference of the MDC's capabilities, the Court and the government contacted the USMS and the USMS transported Kenner to the MDC.

Respectfully submitted,

LORETTA E. LYNCH  
United States Attorney

By: /s/  
Robert T. Polemeni  
Assistant U.S. Attorney  
(718) 254-6044

SO ORDERED

U.S. District Court  
Southern District of New York  
Dkt. April 28 20 15

<sup>1</sup> The MDC initially told the undersigned that Kenner would be permitted access to his laptop computer between the hours of 8am and 4 pm on weekends and that information was conveyed to the Court during the April 22, 2015 ex parte telephone conference. The undersigned subsequently learned, however, that Kenner will be permitted access between the hours of 8 am and 3 pm on weekends.